

REMARKS on NEW CLAIMS

During the examination of the parent application, 09/536,727, applicant presented several claims in succession to overcome the examiner's objections. Claim 8 was the last claim presented, which the examiner deemed acceptable in form, but not in novelty. Applicant decided to carry over the claim to the examination of this current CIP application. Thus, new claim 2 above is claim identical to claim 8 presented in the examination of the parent.

Applicant also submits new dependent claims 3-8 regarding the targeting and paying of "realbuyer" prospects, that is, imminent buyers. These claims were not presented during the examination of the parent.

These claims find support throughout the specification of application 10/042,975. In particular, Book II of the specification is devoted to disclosing methods for targeting and paying these realbuyers: see pages 65-66 which discuss the purposes of these methods, and pages 96-109 which disclose additional sub-methods reflected in dependent claims 4-8.

Below applicant discusses why the prior art presented by the examiner should not lead to a rejection of the claims. First, applicant will discuss Wendkos et al. (US 6,453,299) and then Goldhaber et al. (US 5,855,008).

These discussions revise arguments applicant made during the examination of the parent.

In addition, the discussion of introduces *new* analyses regarding the new dependent claims submitted above. The new analyses are pointed out below for convenience.

Discussion of Wendkos

Wendkos, et al. U.S. Patent No. 6,453,299 was relied upon in the rejection of the cancelled claim. Applicant's claimed methods differ from those of Wendkos.

Wendkos does teach registering promotional awards to a caller (see claims 34-45). And these awards can include instant wins “based on a random or algorithmic selection of callers” (see abstract and col. 11 line 3 to col. 12 line 10).

But, the object of Wendkos is entirely different from applicant’s invention, as stated in the title of Wendkos, “Method for Customizing Queries,” and in the Claims (see col. 17 line 20) “A computer-implemented method of changing interaction with a caller who calls a telephone number as part of a promotional awards program, comprising the steps of...”

As stated in his Prior Art and Summary sections (see col. 2, lines 10-32), the invention is for facilitating award and incentive redemptions, for making coupon and sweepstakes administration easier. And in the Abstract: “A computer system awards promotional incentives. A participant calls or connects to a platform for registering and redeeming credits preferably described in uniquely identified certificates.”

Wendkos “is directed to a method of awarding promotional incentives to a purchaser in which a call is received from a purchaser, a certificate number is entered by the purchaser and the award credits are incremented, based on the certificate number” (see col. 3 lines 35-39).

Further, Wendkos uses profiles and customer data to control the interaction as stated in col. 3 line 33 and col. 12 lines 15-16.

Applicant’s method does not use certificate numbers or caller profiles central to Wendkos.

In applicant’s method, a potential recipient of EV payment is exposed to a message, and then given an EV payment, and then, after the fact, the recipient is probabilistically inspected to see if s/he satisfies the conditions of the offer.

The object of applicant’s invention is to combine efficient, probabilistic payment and efficient, probabilistic inspection, to enable an advertiser to *practically pay a desired audience for attention to a specified sales/ad message*.

Other specific differences between Wendkos and applicant’s claimed method include:

1. Wendkos does not teach the making of a payment offer by an advertiser.
2. Wendkos does not teach the making of a payment offer for attention to a specified message.
3. Wendkos does not teach enabling an advertiser to specify a set of audience characteristics, such that only people who satisfy those characteristics will be paid for paying attention to a message.
4. Wendkos does not teach registering acceptance of a payment offer by exposure – by a recipient paying attention – to a specified message.
5. Wendkos does not teach enabling an advertiser to set an expected value to be paid to desired audience members.
6. Wendkos does not teach utilizing expected value payment, which instantly tells a recipient the mathematical cash value of a probabilistic payment offer.
7. Where Wendkos uses probability, for instance, in col. 11 lines 3-16, there is no EV stated and no EV advertised (there are no matches in Wendkos if one searches the patent for the terms “expected value” and “EV”).
8. Wendkos does not teach setting the probability of a recipient winning a Payoff at EV/Payoff.
9. Wendkos does not teach *inspecting* the characteristics of recipients to see if those characteristics satisfy the conditions set by an advertiser making a payment offer. An inspection step is critical to applicant’s claim invention, but is absent from Wendkos.
10. Wendkos does not teach *probabilistic* inspection of the characteristics of an audience.
11. Wendkos does not teach the use of EV payment for the combined purposes of efficient payment AND efficient inspection/verification of a recipient – key features of applicant’s claimed invention.

Wendkos in Light of the New Dependent Claims

The methods stated the dependent claim enable an advertiser to attract and pay only “realbuyer” prospects – imminent buyers – who receive a message. Isolating imminent buyers is a long-sought goal of advertisers, which the claimed invention accomplishes.

Wendkos does not isolate and pay imminent (future buyers) to receive a sales message. Wendkos discloses a possible improvement for facilitating well-known awards and rebates to people who have *already* purchased.

As pointed out above Wendkos “is directed to a method of awarding promotional incentives to a purchaser in which *a call is received from a purchaser*, a certificate number is entered by the purchaser and the award credits are incremented, based on the certificate number” (see col. 3 lines 35-39) (emphasis added). Note that the caller has *already* purchased.

Discussion of Goldhaber

Goldhaber et al. U.S. Patent No. 5,855,008 was noted as pertinent but not relied upon in the office action of 1/10/07. Applicant’s responses in the examination of the parent included discussions of Goldhaber. Here, applicant summarizes.

Goldhaber enables the brokering of personal data – profiles – to advertisers (see claim 1, col. 21 lines 25-32). The selling of profile data is *the* object of Goldhaber.

Applicant’s claimed methods do not employ the selling of profile data. A key aspect of their appeal and usefulness is that they obviate the need for profile data.

Goldhaber makes no mention of inspecting a payment recipient’s qualifications for payment. Applicant’s claimed methods include an essential inspection (verification) step.

Goldhaber in Light of the New Dependent Claims

As noted, the methods stated the dependent claim enable an advertiser to isolate and pay imminent buyers, that is, *future* buyers, who receive a message.

Goldhaber sells profile data about recipients of ads. Profile data is data about a user and the user's *past* behavior. From this data about the past, an advertiser might guess that the user is a good prospect for a sales message. For example, a user's profile might contain the information that the user is a 36-year old male in Miami who owns a swimming pool. This information might be useful to companies that sell pool equipment, so they might pay for access to that user.

Goldhaber's profile data is not about the future. A profile does not list future actions, only past action. A profile cannot state with any certainty that a person will buy a particular product or service, for instance, a swimming pool pump. Thus, Goldhaber's methods are fundamentally different from the methods of claims 3-8.

Applicant's claimed invention enables the payment of verified future buyers – it is about paying guaranteed verified future buyers. Advertisers who use the methods of claims 3-8 do not pay based on access to past data; they pay based on inspected (verified) future actions.

Thank you for your consideration to my application.

Respectfully submitted,

